

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *Rg* D.C.
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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WITNESS TO: 12-105

VINCENT BASS, X
Plaintiff, X
vs. X No. 04-2318-Ma/P
FEDERAL EXPRESS CORPORATION, X
Defendant. X X

ORDER TO SHOW CAUSE

Plaintiff Vincent Bass filed a pro se complaint pursuant to the form used for commencing actions pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., on April 29, 2004 and paid the civil filing fee. The Court issued an order on May 13, 2004 that, inter alia, directed the plaintiff to file an amended complaint specifying the factual basis for his claim. Plaintiff thereafter retained counsel, who filed a notice of appearance and an amended complaint on June 2, 2004.¹ Defendant answered the complaint on June 25, 2004. On January 19, 2005, plaintiff's attorney filed a motion to withdraw as counsel in this

¹ Although the May 13, 2004 order provided that "[t]he Clerk shall not issue process or serve any papers until further ordered by the Court," 05/13/04 Order at 1, the Clerk properly issued a summons on June 2, 2004 once plaintiff retained counsel.

case. The Court issued an order granting that motion on January 20, 2005. Subsequently, on June 3, 2005, plaintiff filed a motion seeking to compel his former attorneys to continue the representation. The Court denied that motion in an order issued on August 4, 2005. Accordingly, the plaintiff is now proceeding pro se.

On April 4, 2005, defendant filed a motion, pursuant to Fed. R. Civ. P. 37, for an order compelling the plaintiff to appear for his deposition and to extend the scheduling order. Plaintiff did not respond to that motion. Magistrate Judge Tu M. Pham issued an order on May 3, 2005 granting the motion to compel. That order provided, in pertinent part, as follows:

Bass shall be deposed within twenty (20) days from the date of this order. Additionally, Bass is warned that failure to appear for his deposition shall result in dismissal of the case with prejudice.

05/03/05 Order at 3.

Plaintiff did not appear for his deposition, which was noticed for May 23, 2005. On May 25, 2005, defendant filed a motion to dismiss the complaint with prejudice, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute. Plaintiff has not responded to this motion, and the time for a response has expired. Accordingly, the plaintiff is ORDERED to show cause, within fifteen (15) days of the date of entry of this order, why the defendant's motion should not be granted. Failure to file a timely response to this motion

will result in the granting of the motion and the dismissal of this action with prejudice, pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED this 29th day of November, 2005.



SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 34 in case 2:04-CV-02318 was distributed by fax, mail, or direct printing on December 1, 2005 to the parties listed.

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Honorable Samuel Mays
US DISTRICT COURT